

# Amherst Master DRAFT Charter

Version 05.03.17

**Note:**

*This iterative draft document will evolve as the Charter Commission makes and then revisits its decisions. Nothing in this document should be presumed finalized until a vote has been taken on the entire document at the end of the process.*

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No highlighting: Majority of initial draft of text included  
**Yellow highlighting:** Article has major pieces outstanding  
**Blue highlighting:** Article not yet included

# PREAMBLE

Optional. TBD.

DRAFT

# **ARTICLE 1: INCORPORATION, POWERS, ETC.**

## SECTION 1-1: INCORPORATION

The inhabitants of Amherst, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Amherst."

## SECTION 1-2: SHORT TITLE

This instrument shall be known and may be cited as the Amherst Home Rule Charter.

## SECTION 1-3: DIVISION OF POWERS

The administration of the fiscal, prudential, and municipal affairs of Amherst, with the government thereof, shall be vested in an executive branch headed by a mayor and a legislative branch to consist of a council. The legislative branch shall never exercise any executive power, and the executive branch shall never exercise any legislative power.

## SECTION 1-4: POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the commonwealth, it is the intention and the purpose of the voters of Amherst through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated in this act.

## SECTION 1-5: CONSTRUCTION

The powers of Amherst under this charter are to be construed liberally in favor of the municipality, and the specific mention of any particular power is not intended to limit the general powers of the municipality as stated in this Article. To the extent that any provision of this charter shall conflict with any special act or general law adopted by the municipality to the contrary, the provision of this charter shall prevail.

## SECTION 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the commonwealth, Amherst may exercise any of its powers or perform any of its functions, and may participate in their financing, jointly or in cooperation, by contract or otherwise, with the commonwealth or any agency or political subdivision of the commonwealth, or with the United States government or any of its agencies.

## SECTION 1-7: DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

Charter - The word "charter" shall mean the Amherst Home Rule Charter and includes any amendment to it hereafter adopted.

Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

Ex-Officio – The word “ex-officio” shall mean by virtue or because of an office.

Full Council - The words "full Council" shall mean the entire membership of the Town Council notwithstanding any vacancy which might exist.

general laws - The words "general laws" (all lower case letters) shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities, or cities and towns of which Amherst is a member.

General Laws - The words "General Laws" (initial letter of each word in upper case letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

Law – The word “law” when used alone shall mean any statute enacted by the General Court of Massachusetts or any statute enacted by the Congress of the United States and whether otherwise called a General Law or a special law or a public law.

Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within Amherst, with either a weekly or daily circulation.

Majority Vote - The words "majority vote" when used in connection with a meeting of a multiple member body shall mean a majority of those present and not abstaining, unless another provision is made by charter, by bylaw, by law, or **by its own rules.**

Measure -The word "measure" shall mean any bylaw, order, resolution, or other vote or proceeding adopted, or which the Town Council might adopt.

Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of 3 or more persons whether elected, appointed or otherwise constituted, but not including the Town Council, **Board of Library Trustees**, or the School Committee.

Organization plan or reorganization plan – The words “organization plan” or “reorganization plan” shall mean a plan submitted by the mayor to the council which proposes the abolition or consolidation of one or more municipal agencies, including the reassignment of functions from one agency to another, or the establishment of one or more new municipal agencies as deemed necessary to deliver one or more municipal services.

Quorum - The word "quorum" shall mean a majority of all members of a multiple member body notwithstanding any vacancy which might exist unless some other number is required by law or by bylaw.

**Resident – The word “resident” shall be defined as in General Law.**

Special act – The word “special act” shall mean a law enacted by the state legislature which applies only to Amherst.

Supermajority - The word "supermajority" shall mean at least 2/3 of the Town Council or board or committee.

Temporary Absence – The words "temporary absence" shall mean a period after which the office holder intends to return to his or her office.

Town - The word "town" shall mean the Town of Amherst.

Town Agency -The words "town agency" shall mean any multiple member body, any department, division, or office of the Town of Amherst.

Town Bulletin Boards - The words "town bulletin boards" shall mean the display in the town hall on which the Town Clerk posts official notices of meetings and upon which other official town notices are posted, and the display at any other locations as may be designated by the Town Council.

Town website – The words "town website" shall mean a site established and maintained by the town as its online repository of municipal information, whether on the internet or another comparable technology.

Town officer – The word "town officer" when used without further qualification or description, shall mean a person having charge of an office, or department, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.

Vacancy- The word "vacancy" shall mean the permanent absence of an office holder from the position to which there is no intention that he or she shall return.

Voters -The word "voters" shall mean registered voters of the Town of Amherst.

## ARTICLE 2: LEGISLATIVE BRANCH

### SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

(a) Composition - There shall be a town council consisting of 13 members which shall exercise the legislative powers of the town. Three of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Ten of these members, to be known as ward councilors, shall be nominated from and elected by the voters in each ward, with 1 such councilor to be elected from each of the 10 wards into which the town is divided under section [Reference].

(b) Term of Office - The term of office for councilors at large shall be 4 years each, and the term of office for district councilors shall be 2 years each, beginning on the first Monday in the January succeeding the councilor's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward councilor shall be a voter in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the town during the councilor's term, that office shall immediately be deemed vacant and filled in the manner provided in section [reference]. A ward councilor who moves from the ward in which the councilor was elected and who remains a resident of the town may continue to serve during the term for which the councilor was elected. The town council shall determine whether a town councilor has removed from the town.

### SECTION 2-2: CHAIR AND VICE-CHAIR, ELECTION; TERM; POWERS

(a) Election and Term - As soon as practicable after the councilors-elect have been qualified following each regular town election, as provided in [reference], the members of the town council shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the town council. The rules of the then outgoing town council shall govern the election of the chair and vice-chair.

(b) Powers and Duties - The chair shall prepare the agenda for town council meetings with advice from the council. The chair shall preside at all meetings of the town council, regulate its proceedings and decide all questions of order. The chair shall appoint all members of committees of the town council, whether special or standing. The chair shall have the same powers to vote upon measures coming before the town council as any other member of the town council. The chair shall perform any other duties consistent with the office that are established by charter, bylaw, or other vote of the town council. The vice-chair shall preside in the absence of the chair.

### SECTION 2-3: PROHIBITIONS

(a) Holding Other town Position – Except as otherwise provide by the charter, no member of the town council shall hold any other compensated town position. No former member of the town council shall hold any compensated appointed town position until 18 months following the date on which the former member's service on the town council has terminated unless such appointment is affirmed by a vote of 75% of members of the full town council. This section shall not prevent a town employee who vacated a

position in order to serve as a member of the town council from returning to the same position upon the expiration of the term for which that person was elected.

(b) Interference with Administration - No town council or any member of the town council shall give orders or directions to any employee of the town appointed by the mayor, either publicly or privately.

#### SECTION 2-4: COMPENSATION

The members of the town council shall receive compensation for their services as set by bylaw. No bylaw increasing or reducing the compensation of the members of the town council shall be effective unless it is adopted by a vote of 75% of of the full town council. No bylaw increasing or reducing the compensation of councilors shall be effective unless it is adopted during the first 22 months of the ward councilors' terms and the first 46 months for the at-large councilors' terms and it provides that the compensation increase or reduction is to take effect upon the organization of the town government following the next regular town election at which at large councilors are to be elected.

#### SECTION 2-5: GENERAL POWERS

Except as otherwise provided by the General Laws or by this charter, all powers of the town shall be vested in the town council, which shall provide for the performance of all duties and obligations imposed upon the town by law.

#### SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by the General Laws or by this charter, the legislative powers of the town council may be exercised in a manner determined by the town council.

(b) Quorum - The presence of 7 members shall constitute a quorum for the transaction of business. Except as otherwise provided by General Laws or by this charter, the affirmative vote, taken by a roll call vote, of 7 members of the town council shall be required to adopt any bylaw.

(c) Rules of Procedure - The town council shall adopt rules regulating the procedures of the town council, which shall include, but not be limited to, the following rules:

(i) regular meetings of the town council shall be held at a time and place fixed by bylaw, but not less than once per month, and all regular meetings of the town council shall provide for a period of public comment; the town council may promulgate rules that regulate the period of public comment as deemed appropriate;

(ii) special meetings of the town council shall be held at the call of the chair or at the call of any 3 or more members, for any purpose; notice of the meeting shall, except in an emergency, which shall be designated by the chair, be delivered to each member at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purposes for which the meeting is to be held; a copy of each notice shall immediately be posted as the General Laws relative to such postings require;



(iii) all sessions of the town council and of every committee or subcommittee of the council shall, at all times, be open to the public, unless otherwise specified by law; and

(iv) a full, accurate, up-to-date account of the proceedings of the town council shall be maintained by the town clerk, which shall include a record of each vote taken by each member and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting; unless otherwise provided by law, the minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.

#### SECTION 2-7: NEIGHBORHOOD MEETINGS

Every ward councilor shall convene a minimum of \_\_\_\_ neighborhood meetings in his or her ward each year open to all residents to facilitate two-way communication between the town council and other government representatives and the residents of the ward. MORE DETAILS?

#### SECTION 2-8: ACCESS TO INFORMATION

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency.

(b) Information Requests - The town council may require a member of a multiple-member body or a town employee to appear before the town council to give any information that the town council may require in relation to the municipal services, functions and powers, or duties which are within the scope of responsibility of that person and not within the jurisdiction of the school committee.

(c) Mayor - The town council may request specific information from the mayor on any municipal matter and may request that the mayor be present to answer written questions relating to that information at a meeting to be held not earlier than 7 days from the date the mayor receives the questions. The mayor shall personally, or through a designee, attend such meeting and respond to the questions. The mayor, or the person designated to attend, shall not be required to answer questions relating to any other matter.

(d) Notice - The town council shall give a minimum of 7 days notice to a person it may require to appear before it under this section. The notice shall include specific questions on which the town council seeks information and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those questions presented in advance and in writing.

#### SECTION 2-9: APPOINTMENTS OF THE TOWN COUNCIL

(a) Clerk of the Council—The town council shall elect a clerk of the council to hold office at its pleasure. The clerk of the council shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform duties as may be assigned by this charter, by ordinance or by other vote of the town council.

(b) Subject to appropriation, the town council may employ staff as it deems necessary.

## SECTION 2-10: BYLAWS AND OTHER MEASURES

(a) Measures- Except as otherwise provided by the charter, every adopted measure not vetoed shall become effective at the expiration of 21 days after adoption or upon the signature of the mayor, whichever occurs first. No bylaw shall be amended or repealed except by another bylaw adopted in accordance with the charter, or as provided in the initiative and citizens veto procedures.

(b) Emergency Measures- An emergency measure shall be introduced in the form and manner prescribed for measures generally, except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of 2/3 of the full town council. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Right to Postpone - On the first occasion that the question on adoption of a measure is put to the town council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council, whether regular or special. If 2 members present object, such postponement shall be until the next regular meeting. If it is an emergency measure, at least 4 members must object. This procedure shall not be used more than once for any specific matter notwithstanding an amendment to the original matter. The use of this right to postpone shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

## SECTION 2-11: TOWN COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

The mayor shall refer to the town council and simultaneously file with the town clerk, the name of each person the mayor desires to appoint as a town officer, department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The town council shall refer each name submitted to a standing committee of the council which shall review each candidate for appointment and shall make a recommendation to the full town council not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to appear before the committee or before the town council to give any information relevant to the appointment that the committee or the town council may require. Appointments made by the mayor shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the town clerk unless approved or rejected by a majority of the town council within the 45 days.

## SECTION 2-12: FILLING OF VACANCIES

(a) Councilor-at-Large Vacancy

(i) Vacancy during Initial 16 Months of Term: If a vacancy shall occur in the office of councilor-at-large during the first 16 months of the term for which councilors are elected, the vacancy shall be

filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.

(ii) Vacancy between 17 and 21 Months of Term: If a vacancy shall occur in the office of councilor-at-large during or after the 17th month, but before the 21st month of the term to which elected, the vacancy shall be filled at the next regular town election and the candidate elected shall serve for the remainder of the present term.

(iii) Vacancy after initial 21 Months of Term, but prior to 42nd Month of Term: If a vacancy shall occur after the 21st month of the term to which elected, but before the 42nd month, the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.

(iv) Vacancy during or after 42nd month of Term: Any vacancy in the office of councilor at large during or after the 42nd month of the term to which elected shall be filled at the next regular town election. The candidate so elected shall take office immediately, and serve for the remaining 2 months of the present term as well as to the term to which elected.

(b) District Councilor Vacancy - If a vacancy shall occur in the office of district councilor in the initial 18 months of the term the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term. Any vacancy occurring after the 20th month of the term shall be filled at the next regular town election. The candidate so elected shall take office immediately, and serve for the remaining months of the present term as well as to the term to which elected.

(c) Filling of Vacancies by Council - Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in section Article II, sections 11(a) or 11(b), the vacancy shall be filled by vote of the remaining members of the council. Notice of said councilor vacancy shall be posted for a minimum of 21 days prior to the meeting at which the council shall fill any such vacancy.

## ARTICLE 3: EXECUTIVE BRANCH

### SECTION 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS

(a) Mayor Qualifications – The chief executive officer of the town shall be a mayor, elected by the voters of the town at large. Any voter shall be eligible to hold the office of mayor. The mayor shall devote full-time to the office and shall not hold any other elective public office.

(b) Term of Office – The term of office of the mayor shall be 4 years, beginning on the first Monday in the January succeeding the mayor's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and shall continue until a successor has been qualified.

(c) Compensation – The town council shall, by bylaw, establish the compensation for the mayor. No bylaw increasing or reducing the compensation of the mayor shall be effective unless it has been adopted by a two-thirds vote of the full town council. No bylaw increasing or reducing the compensation of the mayor shall be effective unless it has been adopted during the first 18 months of the term for which the mayor is elected and unless it provides that the compensation increase or reduction is to take effect upon the organization of the town government following the next regular town election.

(d) Prohibitions – The mayor shall hold no other compensated town position. No former mayor shall hold a compensated appointed town office or town employment until 18 months following the date on which the former mayor's town service has terminated. This subsection shall not prevent a town officer or other town employee who has vacated a position in order to serve as mayor from returning to the same office or other position of town employment held at the time such position was vacated; provided, however, that no such person shall be eligible for any other town position until at least 18 months following the termination of service as mayor. This prohibition shall not apply to persons covered by a leave of absence under section 37 of chapter 31 of the General Laws.

### SECTION 3-2: EXECUTIVE POWERS; ENFORCEMENT OF BYLAWS

The executive powers of the town shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several town agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, laws, bylaws and other orders of the town government to be enforced and shall cause a record of all official acts of the executive branch of the town government to be kept. The mayor shall exercise general supervision and direction over all town agencies, unless otherwise provided by law or by this charter. Each town agency shall furnish to the mayor, upon request, any information or materials the mayor may request and as the needs of the office of mayor and the interest of the town may require. The mayor shall supervise, direct and be responsible for the efficient administration of all town activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the town and may call together for consultation, conference and discussion, at reasonable times, all persons serving the town, whether elected directly by the voters, chosen by persons elected directly by the voters or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple-member body of the town. The mayor may, as such ex officio member, attend a meeting of an appointed multiple-member body of the town, at any

time, including, so called executive sessions, to participate in the discussions of that body, but shall not have the right to vote.

All contracts entered into by, for, or on behalf of, the town by any officer or town agency shall be subject to the approval of the mayor, unless otherwise required by law.

### SECTION 3-3: APPOINTMENTS BY THE MAYOR

(a) Appointments In General: The mayor shall appoint, subject to review by the town council under section 2-10, all town officers and department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter; this shall not include persons serving under the school committee and persons serving under the town council. All appointments to multiple-member bodies shall be for terms established under article 6. Upon the expiration of the term of any member of a multiple-member body, a successor shall be appointed under article 6. The mayor shall fill a vacancy for the remainder of the unexpired term of any member of a multiple-member body.

The mayor shall seek expertise in all appointments as well as diversity in neighborhood residence, age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex and sexual orientation (ANY OTHERS?).

(b) Community Participation Officer: The mayor shall appoint a community participation officer to work with town departments and multiple-member bodies to develop and implement strategies to enhance public engagement, to assist neighborhood associations in coordination with their meetings, to provide resources and leadership development for individuals interested in getting more involved in local government either through elected or appointed positions, to reach out to increase diversity, to process resident inquiries, to ensure compliance with public notice requirements, to coordinate participatory budgeting in the town, and any other such duties. The community participation officer shall analyze data on resident engagement and shall regularly submit reports to the mayor and council. The community participation officer shall assist with the Town's participatory budgeting process, as described in Article 5, Section 8.

### SECTION 3-4: TEMPORARY APPOINTMENTS TO TOWN OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a town office and the needs of the town require that such office be filled, the mayor may designate a person to perform the duties of the office on a temporary basis until the position can be filled as provided by law or by this charter. When the mayor designates a person under this section, the mayor shall file a certificate with the town clerk.

Persons serving as temporary officers under this section shall have only those powers of the office indispensable and essential to the performance of the duties of the office during the period of temporary appointment and no others. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than 150 days, unless approved by the council..

### SECTION 3-5: COMMUNICATIONS; SPECIAL MEETINGS

(a) Communications to the Town Council - The mayor shall, by written communications, recommend to the town council for its consideration measures as, in the judgment of the mayor, the needs of the town require. The mayor shall, by written communication, keep the town council fully informed of the financial and administrative condition of the town and shall specifically indicate in any such reports any fiscal, financial, or administrative issues facing the town.

(b) Special Meetings of the Town Council - The mayor may call a special meeting of the town council for any purpose. Notice of the meeting shall, except in an emergency, which shall be designated by the mayor, be delivered at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purpose for which the meeting is to be held. A copy of the notice shall be posted immediately or as required by the General Laws relative to such a posting.

(c) State of the Town: Each year in the month of January the mayor shall make an address to a joint meeting of the town council, school committee, all elected and appointed members of town committees, boards, commissions and officers, department heads reporting on the state of affairs of Amherst.

(d) Communications to the Public: The Mayor shall, no less than once a month, communicate with the public by appropriate means.

(e) Public Forums – With consultation from the Council, the Mayor shall call 3 public forums each year addressing budget, master plan, and school issues. The intention of the public forums is to present the public with context, collect feedback, and alert the public to upcoming issues.

#### SECTION 3-6: APPROVAL OF MAYOR, VETO

Every order, bylaw, resolution or vote adopted or passed by the town council relative to the affairs of the town, except memorial resolutions, the selection of town officers by the town council and any matters relating to the internal affairs of the town council, shall be presented to the mayor for approval within 3 business days of such adoption or passage. If the mayor approves of the measure, the mayor shall sign it; if the mayor disapproves of the measure, the mayor shall return the measure with the specific reason for such disapproval attached to the measure in writing to the town council. The town council shall enter the objections of the mayor on its records and not less than 10 business days nor more than 30 days from the date of its return to the town council, shall again consider the same measure. If the town council, notwithstanding such disapproval by the mayor, shall again pass the order, bylaw, resolution or vote by a 2/3 vote of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve the same. If the mayor has neither signed a measure nor returned it to the town council within 10 days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

#### SECTION 3-7: TEMPORARY ABSENCE OF THE MAYOR

(a) Acting Mayor – Whenever, by reason of sickness or other cause, the mayor is unable to perform the duties of the office, the chair of the town council shall be the acting mayor. The town council, by the affirmative vote of two thirds of the members, shall determine whether the mayor is unable to perform

the duties of the office. Notwithstanding any general or special law to the contrary, the vote shall be taken in public session by a roll call vote.

(b) Powers of Acting Mayor – The acting mayor shall have only those powers of the mayor as are indispensable and essential to conduct the business of the town in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make a permanent appointment or removal from town service unless the disability or absence of the mayor shall extend beyond 60 days nor shall an acting mayor approve or disapprove of any measure adopted by the town council unless the time within which the mayor must act would expire before the return of the mayor. The town council chair serving as acting mayor shall not vote as a member of the town council.

(c) In the event that the town council chair is unable to serve as acting mayor under this section, the town council shall elect, from among its membership, a person to serve as acting mayor.

#### SECTION 3-8: DELEGATION OF AUTHORITY BY MAYOR

The mayor may authorize a subordinate officer or employee of the town to exercise a power or perform a function or a duty which is assigned by this charter, or otherwise, to the mayor and the mayor may rescind or revoke an authorization previously made; provided, however, that all acts performed under any such delegation of authority during the period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate the powers and duties of a school committee member, the power of appointment to town office or employment, or to sign or return measures approved by the town council.

#### SECTION 3-9: VACANCY IN OFFICE OF MAYOR

Whenever a vacancy occurs in the office of mayor by death, removal, resignation or any other reason during the first through 42<sup>nd</sup> month of the term for which the mayor was elected, the town council shall call a special election to be held within 90 days following the date the vacancy is created to fill the vacancy for the remainder of the unexpired term. The town council chair shall serve as acting mayor until the vacancy is filled. If a regular town election is to be held within 150 days after the date the vacancy is created, a special election need not be held and the position shall be filled by vote at the regular town election and the person elected shall serve for the remainder of the unexpired term.

If a vacancy occurs during the 43<sup>rd</sup> month through the end of the term for which the mayor was elected, the chair of the town council shall become acting mayor, shall exercise all the rights and powers of the mayor and shall be sworn to the faithful discharge of the mayoral duties. In the event that the town council chair is unable or unwilling to serve, a special meeting of the town council shall be called by the chair and the council shall elect, by majority vote, 1 of its members to serve as acting mayor for the remainder of the unexpired term. The individual serving as acting mayor under this section shall not be entitled to have the words “candidate for reelection” printed with that person’s name on the election ballot. Any person serving as mayor under this section shall receive the compensation then in effect for the position of mayor.

## ARTICLE 4: SCHOOL COMMITTEE AND OTHER ELECTED OFFICES

### SECTION 4-1: ELECTED OFFICES IN GENERAL

(a) Offices to be Filled by Election - The offices to be filled by ballot of the town's voters shall be a Town Council as provided in Article 2, a School Committee, Library Board Of Trustees, Housing Authority, Oliver Smith Will Electors and members of regional authorities or districts requiring election as may be established by General Law, inter-local agreements, or otherwise.

(b) Eligibility - Any voter of the town shall be eligible to hold the position on any office in this Article, but no elected office-holder of any office in this Article shall simultaneously hold any other elected town office. If an elected office-holder of any office in this Article moves from the town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in Section 1(c).

(c) Vacancy - Except for the Oliver Smith Will Elector and for the Town Council, whenever a vacancy occurs on an elected board or committee, the Chair of the Town Council shall, within 30 days following the date of the vacancy, call a special meeting of the Town Council and the remaining of that board or committee to fill the vacancy. The Town Council and remaining board or committee members shall choose a person to fill the vacancy from among the voters by a majority vote of the full Town Council and remaining board or committee members. Persons appointed to fill a vacancy by the Town Council and the remaining board or committee members shall serve only until the next regular town election, when the office shall be filled by the voters. The candidate elected to an office filled by appointment prior to the election shall be sworn to the office immediately to complete the then unexpired term in addition to the term for which elected. No vacancy shall be filled under this section if a regular town election is to be held within 120 days following the date the vacancy is declared to exist, but said vacancy shall be filled at the next regular town election by the voters. Persons appointed as board or committee members under this section shall not be entitled to have the words "candidate for reelection" printed with that person's name on the election ballot.

(d) Compensation - Except for the Oliver Smith Will Elector, any compensation for office-holders of any office in this Article shall be set by the Town Council and in the annual Town Budget. No increase or reduction for the compensation of the members of the office-holders shall be effective unless it is adopted by a 2/3 vote of the full town council.

### SECTION 4-2: SCHOOL COMMITTEE

(a) Composition and Term - There shall be a School Committee consisting of [Decision – number of members] members. [Decision – number of at large members] these members shall be nominated and elected by and from the voters at large. [Decision – number of district members] of these members shall be nominated from and elected by the voters in each ward, with [X] such member to be elected from each of the 10 wards into which the town is divided under section [Reference]. The term of office for school committee members shall be [Decision – term length] years, beginning on the first Monday in the



January succeeding the member's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(b) Officers - As soon as practicable after the members-elect have been qualified following each regular town election, as provided in [reference], the members of the school committee shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the school committee. The rules of the then outgoing school committee shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The School Committee shall have all of the powers and duties School Committees may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The School Committee shall make an annual report as specified in the town bylaws.

#### SECTION 4-3: LIBRARY BOARD OF TRUSTEES

(a) Composition and Term - There shall be a Library Board of Trustees consisting of 6 members nominated and elected by and from the voters at large. The term of office for Trustees shall be 2 years, beginning on the first Monday in the January succeeding the Trustee's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(b) Officers - As soon as practicable after the Trustees-elect have been qualified following each regular town election, as provided in [reference], the members of the Library Board of Trustees shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the Library Board of Trustees. The rules of the then outgoing Library Board of Trustees shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The Library Board of Trustees shall have all of the powers and duties Library Board of Trustees may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Library Board of Trustees shall make an annual report as specified in the town bylaws.

#### SECTION 4-4: HOUSING AUTHORITY

(a) Composition and Term - There shall be a Housing Authority consisting of 5 members, with 3 of those members nominated and elected by and from the voters at large, 1 of those members appointed by the Commonwealth, and 1 elected tenant member. The term of office for the elected members shall be [Decision – term length] years, beginning on the first Monday in the January succeeding the member's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified. The term of office for the appointed member shall be as provided by the Massachusetts General Laws.

(b) Officers - As soon as practicable after the members-elect have been qualified following each regular town election, as provided in [reference], the members of the Housing Authority shall elect from among

its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the Housing Authority. The rules of the then outgoing Housing Authority shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The Housing Authority shall have all of the powers and duties housing authorities may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Housing Authority shall make an annual report as specified in the town bylaws.

#### SECTION 4-5: OLIVER SMITH WILL ELECTORS

One member shall be elected by and from the voters of the town at large for a term of 2 years. Whenever a vacancy occurs in the office of Oliver Smith Will Elector, the town council shall, within 30 days following the date of that vacancy, act to fill the vacancy. A person elected to fill a vacancy by the town council shall serve only until the next regular town election, when the office shall be filled by the voters. The person elected at such regular town election shall take office immediately. No vacancy shall be filled under this section if a regular town election is to be held within 120 days following the date of the vacancy. A person serving as Oliver Smith Will Elector under this section shall not be entitled to have the words "candidate for reelection" printed next to that person's name on the election ballot.

## ARTICLE 5: FINANCIAL POLICIES AND PROCEDURES

### SECTION 5-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

### SECTION 5-2: JOINT MEETING

The mayor shall call a joint meeting of the Budget Coordinating Group before the commencement of the budget process and during the budget process, as necessary, to review the financial condition of the town, revenue and expenditure forecasts and other relevant information prepared by the mayor in order to develop a coordinated budget, budget guidelines, and coordinated budget calendar.

The Budget Coordinating Group shall consist of the mayor and representatives of the town council, elementary and regional schools, library, and any other persons the mayor deems necessary.

### SECTION 5-3: PUBLIC FORUM

Before submitting a proposed budget to the town council, the mayor shall hold at least one public forum on the topic of the proposed budget intended to present the public with the mayor's priorities, context based on prior years' budgets and relevant information, as well as to solicit feedback from the public.

### SECTION 5-4: SUBMISSION OF BUDGET; BUDGET MESSAGE

- a) Not later than 60 days before the start of the town's fiscal year, the mayor shall submit to the town council a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The mayor shall simultaneously have the entire document publicly posted.
- b) The budget message of the mayor shall explain the proposed budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for these changes, summarize the town's debt position, and include other material that the mayor considers desirable, or that may be required by the provisions of a town bylaw. It shall also outline the progress being made on the capital improvement program.
- c) The proposed budgets adopted by the local school committee, regional school committee, and library board of trustees shall be submitted to the mayor at least 28 days before the date the mayor is required to submit a proposed budget to the town council.
- d) The proposed budget shall provide a complete financial plan for all town funds and town activities for the ensuing fiscal year. Except as may otherwise be required by general law or this charter, it shall be in the form that the mayor considers desirable or that a town bylaw may require.

## SECTION 5-5: ACTION ON THE BUDGET

- a) Public Hearing: Immediately upon its receipt of the proposed budget, the town council shall refer the budget to the town council's Finance subcommittee. The Finance subcommittee shall hold a public hearing on the proposed budget, providing no less than 10 days' notice of such hearing. The subcommittee will thoroughly review the budget and make a presentation and recommendation to the full town council within 21 days.
- b) Finance subcommittee: The Finance Subcommittee of the town council shall consider any or all questions which it deems appropriate for the purpose of considering the budget. It shall have authority at any time to investigate the books, accounts, and management of any department of the town and to require officers and employees of the town to appear before it and to provide information. The Finance Subcommittee may include non-voting members of the public.
- c) Action by Town council: The town council shall adopt the budget, with or without amendments, within 21 days after the day the proposed budget is reported out by its Finance subcommittee. In amending the budget, the town council may delete or decrease any programs or amounts except expenditures required by law; except on the recommendation of the mayor, the town council shall not increase any item in or the total of the proposed budget, unless otherwise authorized by the General Laws. If the town council fails to take action on an item in the proposed budget within said 21-day period, that amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified. The vote to approve the budget shall be on a roll call vote.

## SECTION 5-6: SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

Whenever the mayor shall submit to the town council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual budget or for an item, or items, not included in the annual budget as adopted, the town council shall not act upon the request until it has (1) been reviewed by the Finance subcommittee, (2) been publicly posted for a minimum of 10 days and (3) held a public hearing concerning the request.

## SECTION 5-7: CAPITAL INVENTORY AND CAPITAL IMPROVEMENT PROGRAM

- a) Capital Inventory: The mayor shall establish and update not less frequently than annually an inventory of significant capital assets such as buildings, infrastructure (water, sewer, storm water, and roads), moveable equipment and such other property as determined by bylaw. The town council shall by bylaw establish the requirements of the inventory, such as age, condition, maintenance and repair history, remaining useful life and other features as the town council may deem appropriate.
- b) Capital Improvement Program: The mayor, with the advice of a joint capital planning committee comprised of, at a minimum, representatives from the town council, school committee, and library board of trustees, shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the facilities and/or equipment included. The above information shall be revised and extended each year.

- c) submission: The mayor shall prepare and submit to the town council the inventory and the 5-year capital improvement program at least 120 days prior to the mayor's submission of the next fiscal year's budget.
- d) Public Hearing: The town council shall make the proposed capital improvement program available to the public and shall hold at least one public hearing on the capital improvement program.
- e) Adoption: At any time after the public hearing but before the first day of the last month of the current fiscal year, the town council shall by resolution adopt the capital improvements program, which may be amended, provided that each amendment shall be voted on separately and that an increase in the capital improvements program as submitted shall clearly identify the method of financing to accomplish the proposed increase.

#### SECTION 5-8: PARTICIPATORY BUDGETING

A portion of not less than \_\_\_\_% of the capital portion of the annual budget shall be allocated to projects that are initiated by and voted upon by the residents of Amherst. The town council shall by bylaw establish the process for allocating this portion of the capital budget.

#### SECTION 5-9: INDEPENDENT AUDIT

The town council shall annually provide for an outside audit of the books and accounts of the town to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the town or any of its officers. The mayor shall annually provide to the town council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the town council. The award of a contract to audit shall be made by the town council on or before September 15 of each year. The clerk of the council shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the town council not later than March 1 in the year following its award.

## ARTICLE 6: ADMINISTRATIVE ORGANIZATION

### SECTION 6-1: ORGANIZATION OF TOWN AGENCIES

(a) The mayor may prepare and submit to the town council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any town agency, in whole or in part, or establish new town agencies as the mayor considers necessary or expedient. The reorganization plan shall be accompanied by an explanatory memo which shall include: (i) reference to any bylaws to be repealed or modified; (ii) a summary of proposed bylaw language changes to be put into effect by the plan; and (iii) a summary of the estimated financial impact of the proposed changes.

(b) Every reorganization plan shall, upon receipt by the town council, be referred to an appropriate committee of the town council which shall, not more than 30 days after receipt of the plan, hold a public hearing on the matter and shall, not later than the second regular meeting of the town council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 60 days after the date it is received by the town council unless the town council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the mayor to the town council under this section shall not be amended by the town council but shall either be approved or rejected as submitted. Reorganization plans shall not be subject to **charter objection** as provided in section 2-10(c).

### SECTION 6-2: MERIT PRINCIPLE

All appointments and promotions of town officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position.

### SECTION 6-3: BOARD OF LICENSE COMMISSIONERS

There shall be a board of license commissioners which shall have the power to issue licenses for innholders or common victuallers, the powers of a licensing board appointed under section four of chapter 138 of the General Laws, be the licensing authority for the purposes of chapter 138 and chapter 140 of the General Laws and which shall have all of the other powers with respect to licenses which prior to the adoption of the home rule charter were exercised by the board of selectmen. The board of licensing commissioners may grant licenses relating to alcoholic beverages under chapter 138 of the General Laws and those licenses under chapter 140 of the General Laws which are not, by the provisions of said chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under said chapters.

The board of license commissioners shall consist of five residents appointed by the mayor and confirmed by the town council. Such appointed members shall serve for 3 year terms. No person while a member of the board of license commissioners shall have any connection, directly or indirectly, with the sale or distribution of alcoholic beverages (or marijuana) in any form.

The town clerk, the building inspector, the director of public health, the fire chief and the police chief (or persons performing similar duties under any other title) shall be advisory to board of license commissioners.

SECTION 6-3: [Placeholder for Planning]

DRAFT

## ARTICLE 7: ELECTIONS

TBD

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## ARTICLE 8: CITIZEN RELIEF MECHANISMS

### SECTION 8-1. FREE PETITION

- a) Individual Petitions, Action Discretionary — The town council, school committee, and library trustees shall receive all petitions signed by one or more voters and addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable.
- b) Group Petitions, Action Required — The town council, school committee, or library trustees shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least 50 voters. The hearing shall be held by the town council, school committee, or library trustees, or in any case, by a committee or subcommittee thereof, and the action by the town council, school committee, or library trustees shall commence not later than two months after the petition is filed with the clerk of the town council, school committee, or library trustees. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee or library trustees shall mail notice of the hearing to the ten petitioners whose names first appear on each such petition at least seven days before the hearing. The town council, school committee, or library trustees shall publish in one or more local newspapers a general summary of the subject matter of such petitions and a notice stating: (1) the times and places where copies of the citizen petitions are available for inspection by the public, and (2) the date, time, and place not less than two weeks after such publication, when a public hearing on said petitions will be held by the town council, school committee, or library trustees.

### SECTION 8-2. CITIZEN INITIATIVE MEASURES

- a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council or the secretary of the school committee or library trustees, as the case may be. The petition shall be addressed to the town council, school committee, or library trustees, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 75 voters. The signatures must be certified by the town clerk. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.
- b) Referral to Attorney - The clerk of the council or the secretary of the school committee or library trustees, as the case may be, shall immediately following receipt of each proposed petition deliver a copy of the petition to the town attorney. The town attorney shall, within 21 days after receipt of a copy of the petition, in writing, advise the town council, school committee, or library trustees, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the town council, school committee, or library trustees. If the opinion of the town attorney is that the measure is not in proper form, the reply shall state the reasons for this opinion in full. A copy of the opinion of the town attorney shall also be mailed to the petitioners committee
- c) Submission to Clerk - If the opinion of the town attorney is that the petition is in a proper form, the town clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of

each blank a fair, concise summary of the proposed measure, as determined by the town attorney, together with the names and addresses of the petitioners committee who signed the originating petition. Within 30 days after the date the blank forms are issued by the town clerk, the petitions shall be returned and filed with the town clerk signed by at least 75 additional voters. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, containing on the petition the street and number of the residence of each signer accompanied by the endorsement of the name and residence address of the person designated as filing the petition. Within 10 days after the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed. The town clerk shall attach to the petition a certificate showing the results of the board's examination and shall return the petition to the clerk of the council, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters' certificate shall also be mailed to the petitioners committee.

- d) Action on Petitions – Within 60 days after the date a petition has been returned to the clerk of the council, or the secretary of the school committee or library trustees, and after publication under Article II, section [reference], the town council, school committee, or library trustees shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the town council, school committee, or library trustees fails to act with respect to any initiative measure that is presented to it within 60 days after the date it is returned to it by the clerk, the measure shall be considered to have been approved on the sixtieth day. If an initiative measure is rejected, the clerk of the council, or the secretary of the school committee or library trustees, shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.
- e) Supplementary Petitions - 30 days after the date an initiative petition has been rejected by the council, a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5% percent of the total number of voters as of the date of the most recent town election. If the number of signatures to the supplemental petition is found to be sufficient by the town clerk, the council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days after the date the council votes to call for the special election and shall submit the proposed measure, without alteration, to the voters for determination, but if any other town election is to be held within 120 days after the date of the certificate, the council may omit the calling of the special election and cause the question to appear on the election ballot at the next regular town election for determination by the voters.
- f) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 21 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the town clerk, and in such other locations as may be determined by the clerk, including, but not limited to, the public library, and the official town website or similar electronic posting.
- g) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition, take effect?

(Here, insert a fair, concise summary prepared by the attorney.)

YES \_\_\_\_\_

NO \_\_\_\_\_

- h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

### SECTION 8-3: CITIZEN VETO PROCEDURES

- a) Petition, Effect on Final Vote - If, within 21 days following the date on which the town council, school committee, or library trustees has voted finally to approve any measure, a petition signed by a minimum of 5% voters and addressed to the town council, school committee, or library trustees, protesting against the measure or any part of it is filed with the Clerk of the town council or the Secretary of the school committee or library trustees, the effective date of that measure shall be temporarily suspended. The town council, school committee, or library trustees shall immediately reconsider its vote on the measure or part thereof protested against, and if the measure is not rescinded, the town council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, within such time as may be requested by the school committee or library trustees or at the next regular town election; provided, however, that pending this submission and determination, the effect of the measure shall continue to be suspended.
- b) Submission to Town Clerk - Within 10 days following the filing of the petition, the registrars of voters shall ascertain the number of voters that signed the petition. The registrars of voters shall cause a certificate showing the results of its examination to be attached to the petition and shall return the petition to the clerk of the town council or the secretary of the school committee or library trustees, depending on how the petition is addressed. A copy of the registrars of voters' certificate shall also be mailed to the first 10 voters who signed the petition, if applicable.
- c) Referral to the Town Attorney – The clerk of the town council or the secretary of the school committee or library trustees shall, immediately following receipt of the petition, deliver a copy of the petition to the town attorney. The town attorney shall, within 21 days following receipt of a copy of the petition, in writing, advise the town council, school committee, or library trustees and the town clerk whether the measure may lawfully be protested by the citizens veto process. If the opinion of the town attorney is that the protest of the measure is not in proper form, the reply shall state the reasons for this opinion in full. If the town attorney finds it is not in proper form, the suspension on the measure shall be immediately lifted. A copy of the opinion of the town attorney shall be mailed to the first 10 voters who signed the petition.
- d) Publication - The full text of a citizens veto measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 21 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the Town Clerk. Publication shall be at the town's expense.
- e) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure or part thereof protested against by citizens veto take effect?

(Here insert the text of the measure or part thereof protested against as originally voted by the Town/town Council or School Committee.)

YES \_\_\_\_\_

NO \_\_\_\_\_

- f) Time of Taking Effect – If a majority of the votes cast on the question is in the affirmative, the measure as originally approved by the town council, school committee, or library trustees shall be deemed to be effective immediately.

#### SECTION 8-4: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the citizen veto procedures outlined in \_\_\_\_-\_\_\_\_ and \_\_\_\_-\_\_\_\_:

- a) proceedings relating to the internal organization or operation of the council or the school committee;
- b) an emergency measure adopted in conformity with the charter;
- c) the town budget or the school committee budget as a whole;
- d) revenue loan orders;
- e) any appropriation for the payment of the municipality's debt or debt service;
- f) an appropriation of funds to implement a collective bargaining agreement;
- g) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- h) any proceedings repealing or rescinding a measure or part thereof which is protested by citizens veto procedures;
- i) any proceedings providing for the submission or referral to the voters at an election; and
- j) memorial resolutions.

#### SECTION 8-5: SUBMISSION OF OTHER MATTERS TO VOTERS

The council may of its own motion, and shall at the request of the school committee or library trustees if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular town election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

#### SECTION 8-6. CONFLICTING PROVISIONS

If two or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

#### SECTION 8-7. RECALL ELECTIONS

Application\_- Any person holding an elected town office may be recalled from that office by the voters under the procedures made available in this section.

#### Recall Affidavit

Office Elected by Voters at Large - 250 or more voters may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer sought to be recalled and a statement of the grounds for recall. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.

ii ) Officer Elected by District – 100 or more voters from the district where an officer elected by said district is sought to be recalled may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer whose recall is sought and a statement of the grounds for recall. The signatures on this affidavit shall contain the names only of voters in the district from which the officer was elected. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.

Recall Petition: At Large, or by District - If the affidavit is found to be valid, the town clerk shall deliver to the petitioners committee, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the council; they shall contain the names and residence addresses of petitioners committee and they shall contain the grounds for recall as stated in the affidavit and they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the board of registrars of voters within 30 days after the date they are issued, signed by not less than 15% of the total number of voters in the district for an official elected by the district, or of the municipality for an official elected at large, as of the date of the most recent regular town election. The sheets constituting a petition need not all be filed at the same time. For the purposes of this section, a petition shall be considered filed whenever the petitioners committee notifies the board of registrars of voters in writing, that the filing is complete. Before receiving such notice, the board of registrars of voters may, but shall not be required to, certify signatures on the sheets already filed. The board of registrars of voters, shall within 10 days following the date the petition forms are filed certify the number of signatures on them which are the names of voters and the percentage that number represents of the total number of voters in each district as of the date of the most recent regular town election.

Recall Election - If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, the board shall immediately submit the petitions, with their certificate, to the council. Upon receipt of the certified petition forms, the council shall immediately give written notice to the officer whose recall is sought of the validity of the petitions. If the officer whose recall is sought does not resign the office within 5 days after delivery of the notice, or by its having been delivered to the last known place of residence of the officer, the council, after consultation with the town/town clerk, shall order a special election to be held on a date no less than 35 nor more than 90 days after the date of its notice to the officer whose recall is sought.

Ballot Question - Ballots used at the recall election shall state the proposition in substantially the following form:

Shall (insert name of officer) be recalled from the office of (insert name of office held)?

YES \_\_\_\_\_

NO \_\_\_\_\_

Officeholder - If the officer whose recall is sought has not resigned the office, the officer shall continue to hold and perform the duties of the office until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be deemed recalled, and the office shall be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected.

Restriction on Recall Affidavit - No recall affidavit shall be filed against any officer until at least 9 months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms.

Filling of Vacancy:

If the office of mayor is declared vacant as the result of a recall election, the council shall immediately call a special election to be held on a date fixed by it not less than 90 nor more than 120 days after the date of the recall election. The person elected at that special election shall serve for the balance of the unexpired term remaining at the time of election.

Vacancies in any other elected office shall be filled under sections [reference]. No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by that recall.

Prohibition on Officeholder Recalled - No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any town office within two years after such recall or such resignation.

## **ARTICLE 9: GENERAL PROVISIONS**

### **1. CHARTER CHANGES**

This charter may be replaced, revised or amended under any procedure made available under the Massachusetts constitution or by statute.

### **2. SEVERABILITY**

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

### **3. SPECIFIC PROVISION TO PREVAIL**

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### **4. REFERENCES TO GENERAL LAWS**

All references to General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

### **5. COMPUTATION OF TIME**

In computing time under this charter, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period is 7 days or more, every day shall be counted.

### **6. PERIODIC REVIEW OF CHARTER**

The Council shall provide, in every year ending in a 5, for a review of the charter by a special committee to be established by bylaw. The committee shall file a report within 1 year recommending any changes to the charter which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be voters of the town. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

### **7. PERIODIC REVIEW OF BYLAWS**

The [Mayor? Mayor and Council? Council?] shall provide for a review of the Town's general bylaws by a special committee to be established by bylaw not less than every 10 years. The committee shall file a report within 1 year recommending any changes to the bylaws which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be voters of the town. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

## **8. RULES AND REGULATIONS**

A copy of all rules and regulations adopted by boards and committees which are subject to the Massachusetts Public Records Act shall be placed on file in the office of the Town Clerk when approved by vote of the board or committee and shall be available for review by any person who requests such information at any reasonable time. Unless an emergency exists, as determined by the [Mayor?], no rule or regulation adopted by boards and committees shall become effective until at least 5 days following the date it is filed. All such rules or regulations shall be placed on the Town website as soon as administratively possible.

## **9. CERTIFICATION OF ELECTION OR APPOINTMENT**

Every person who is elected or appointed to an office or as a member of a multiple-member body shall receive a certificate of that election or appointment from the Town Clerk. Except as otherwise provided by law, every person who is elected or appointed to an office or as a member of a multiple-member body, before performing any act under this election or appointment, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties. A record of this oath or affirmation shall be kept by the Town Clerk.

## **10. UNIFORM PROCEDURES APPLICABLE TO MULTIPLE MEMBER BODIES**

(a) Meetings- All multiple member bodies of the town shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by bylaw. Special meetings of any multiple member body may be held if called by the chair or by one-third of the members thereof but not fewer than 2, provided that at least 48 hours notice listing the item or items to be acted upon shall be given to each member. All meetings must be posted and comply with the Open Meeting Laws of the Commonwealth.

(b) Rules and Minutes- Each multiple member body shall determine its own rules and order of business unless another provision is made by bylaw and shall provide for the keeping of minutes and supporting documentation of its proceedings. These minutes shall be a public record and published on the Town website.

(c) Voting- If requested by any member, any vote of any multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the minutes; if the vote is unanimous only that fact need be recorded.



(d) Composition of Appointed Multiple-Member Bodies - All appointed multiple-member bodies, when established, shall be composed of an odd number of members, of not less than three. Whenever the terms of office of an appointed multiple-member body are for more than one year, such terms of office shall be so arranged that as nearly as possible an equal number of terms will expire each year.

#### **11. REMOVAL OF MEMBER OF MULTIPLE MEMBER BODIES**

Any officials appointed by the mayor to a multiple member body may be removed from office by the mayor if said official fails to attend regularly scheduled meetings for a period of three consecutive months without express leave from the chair of such multiple member body, unless the mayor shall determine otherwise. Any such appointed official shall be automatically removed from office if such person is convicted of a felony or if such person is absent from such duties for the period of one year notwithstanding the permission from the chair to be absent.

[More could be added here from the "Potential General Provisions" document]

## ARTICLE 10: TRANSITION PROVISIONS

TBD

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